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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,592	02/07/2000	James P. Jackson	M-7876 US	1483
7590 01/21/2005 McDERMOTT WILL & EMERY 600 13th STREET, N.W. WASHINGTON, DC 20005-3096			EXAMINER JONES, SCOTT E	
			ART UNIT 3713	PAPER NUMBER
DATE MAILED: 01/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/499,592

Applicant(s)

JACKSON ET AL.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-34,36-46,48-57,59-69 and 71-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-34,36-46,48-57,59-69 and 71-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on October 9, 2004 in which applicant amends claims 24, 26-27, 29-34, 36, 38-39, 41-45, 48-50, 52-57, 59, 61-62, 64-69, 71, 73-74, 76-81, cancels claims 23, 35, 47, 58, and 70, and responds to the claim rejections. Claims 24-34, 36-46, 48-57, 59-69, and 71-92 are pending.
2. The indicated allowability of claims 47-57 and 82-92 is withdrawn in view of the newly discovered reference(s) to Wood (U.S. 5,286,023), Keesee (U.S. 5,282,620), Jones (U.S. 6,402,150), and Grippo et al. (U.S. 6,017,032). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 24-34, 36-46, 48-57, 59-69, and 71-92 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood (U.S. 5,286,023) and Keesee (U.S. 5,282,620).

Wood discloses a video lottery game having a video display and a processor for enabling a player to play the video lottery game having means for calculating and displaying jackpot prize schedules including a predetermined payable; said jackpot prize schedules calculating means

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being based upon a preselected payback allocation percentage; player operable means responsive to said displayed jackpot prize schedules for receiving and displaying a bet; means responsive to said player operable means for receiving and displaying a bet for randomly selecting a plurality of objects; means for sequentially displaying each of said randomly selected plurality of objects responsive to a player selection; means responsive to said randomly selected and displayed objects for evaluating and displaying game results, said evaluating means including means responsive to a winning combination of said displayed randomly selected objects for calculating said jackpot prize schedules; and means responsive to said calculated jackpot prize schedules for calculating a payout; said jackpot prize schedules including a first progressive jackpot prize amount and a second progressive jackpot prize amount; said first progressive jackpot prize amount being substantially greater than said second progressive jackpot prize amount; said first progressive jackpot prize amount and said second progressive jackpot prize amount being separately calculated and awarded, whereby a player winning one of said first or second progressive jackpot prize amounts does not affect the amount of the other of said first or second progressive jackpot prize amounts (Figure 1, Column 1, line 45-Column 2, line 4, Column 2, line 20-Column 4, line 55, and Claim 1).

Keesee discloses a lottery game having means for calculating jackpot prize schedules; said jackpot prize schedules calculating means being based upon a preselected payback allocation percentage; means for receiving a player's bet; means responsive to said player's bet receiving means for randomly selecting a plurality of objects; means for evaluating game results responsive to said randomly selected plurality of objects; said game results evaluating means including means responsive to an identified first winning combination of said randomly selected

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objects for calculating a first payout utilizing a fixed payable and a player's bet received by said player's bet receiving means and means responsive to an identified second winning combination of said randomly selected objects for calculating a second payout utilizing said means for calculating jackpot prize schedules; said jackpot prize schedules including a first progressive jackpot prize amount and a second progressive jackpot prize amount, said first progressive jackpot prize amount and said second progressive jackpot prize amount being separately calculated and awarded, whereby a player winning one of said first or second progressive jackpot prize amounts does not affect the amount of the other of said first or second progressive jackpot prize amounts; and means for printing said randomly selected plurality of objects and game results on a lottery ticket responsive to said randomly selecting objects means and said game results evaluating means (Figures 2, 3, Column 1, line 58-Column 2, line 5, Column 2, line 23-Column 3, line 18, and Claim 1).

5. Claims 24-34, 36-46, 48-57, 59-69, and 71-92 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones (U.S. 6,402,150) and Grippo et al. (U.S. 6,017,032).

Jones discloses a method of including multiple jackpot components as additional features in a casino card game, by affording a player an opportunity to make a game wager to participate only in the casino card game; affording the player an option of making at least one jackpot wager to participate in at least one of the multiple jackpot components; establishing a first set of a plurality of prizes corresponding to a first set of selected card arrangements and a second set of a plurality of prizes corresponding to a second set of selected card arrangements; after these initial steps, dealing an initial hand of playing cards to the player; as a first jackpot component,

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awarding a prize from said first set of prizes, independent of any amounts won on said game wager for said casino card game, to the player only if the player's initial hand of playing cards comprises one of said card arrangements from said first set of card arrangements, and the player made said at least one jackpot wager; affording the player a discard and draw option to discard at least one card from said initial hand and draw a corresponding number of replacement card(s); and as a second jackpot component, awarding a prize from said second set of prizes, independent of any amounts won on said game wager for said casino card game, to the player only if the player's hand of playing cards after said discard and draw option comprises one of said card arrangements from said second set of card arrangements and the player made said at least one jackpot wager, whereby the player may win both a prize in the casino card game and another, separate prize from at least one of said first set of prizes and said second set of prizes (Column 2, line 56-Column 5, line 40, and Claim 1).

Grippo et al. discloses a method of operating a lottery game, comprising providing a central controller; establishing a plurality of different wager denominational levels; further providing a plurality of bettor pools, corresponding to the number of the plurality of different wager denominational levels; separating each of the bettor pools according to the corresponding denominational level of the wager; further providing a plurality of jackpot pools, with each of the jackpot pools corresponding to one of the plurality of different wager denominational levels; separating each of the jackpot pools from one another; accepting a plurality of wagers corresponding to each of the different wager denominational levels; assigning wagers of each of the different wager denominational levels to a corresponding one of the jackpot pools, by means of the central controller; determining at least one winning bettor from each of the bettor pools;

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and awarding the at least one winning bettor from each of the bettor pools, a payoff from the corresponding jackpot pool (Abstract, Figures 1-3, Column 4, line 16-Column 5, line 27, and Claim 1).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones  
Examiner  
Art Unit 3713



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